

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09/07/2004

CORAM

THE HON'BLE Mr. JUSTICE V.KANAGARAJ

C.R.P. (PD) NO.442 OF 2004

AND

C.M.P.No.4625 OF 2004

L.K.K.Kandasamy ... Petitioner

-Vs-

S.P.Natesan ... Respondent

Revision filed under Article 227 of the Constitution of India
against the fair and decretal order dated 3.2.2004 made in I.A.No.81 1 of 2003
in O.S.No.64 of 2003 on the file of the Sub Court, Sankari.

!For petitioner ...Mr.N.Manokaran

^For respondent ...Mr.Sankaravelmurugan

:ORDER

Today when the above Civil Revision Petition was taken up for consideration in the presence of counsel for both, what comes to be seen by this court is that it is an application filed by the plaintiff/ respondent herein under Section 45 of th Act and under Section 151 CPC, thereby praying to permit the Finger Print Expert to inspect the suit promissory notes with admitted signatures found in minutes book and to give opinion and also give evidence in the suit, which came to be allowed by the l ower court is being testified by the defendant in the suit by means of the above Civil Revision Petition.

2. Learned counsel appearing for the petitioner would point out that in the circumstances neither such an expert's opinion is necessary nor could any private expert be entrusted with the task of offering opinion, which cannot be a conclusiv e over, the learned counsel would feel that such an opinion obtained is not going to be of much use for the lower court to decide the matter, which should be considered in a larger spectrum.

3. On the other hand the learned counsel appearing on behalf of the respondent would argue to the effect that the lower court has rightly allowed the application, since for giving a finding on all those issues involved in the suit, the lower found it necessary to invite the expert's opinion for better appreciation of the facts and circumstances and the documents concerned with the subject and therefore, the above Civil Revision

Petition should be dismissed.

4. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel for both, this court is of the view that there is absolutely nothing wrong in the lower court's order in allowing for the purpose of getting the opinion of the expert for comparison of the signatures found in the promissory notes with admitted signatures of the minutes book and to adduce evidence, recording the same which in the considered opinion of the lower court would help appreciate the evidence in a better manner. Further the other argument advanced on the part of the petitioner that inviting a private expert to do the job of comparison of the signatures in the admitted documents and that of the promissory notes would not be of much use. If the opinion of the experts concerned with the Governmental Bodies is to be collected, the document has to be sent to those officers. It is not desirable to permit the document to go away from the premises of the court, since manipulation of the documents cannot be ruled out and therefore, it is only desirable to summon a private expert so as to take the impressions in the presence of the court for comparison of the same and to submit a report and therefore, this court does not find anything has gone wrong regarding the lower court's order permitting the petition filed by the respondent under Section 45 of the Evidence Act and under Section 151 CPC and hence the following order:-

In result,

(i) the above Civil Revision Petition does not merit acceptance, but becomes liable to be dismissed and it is dismissed accordingly;

(ii) the fair and decretal order dated 3.2.2004 made in I.A.No.811 of 2003 in O.S.No.64 of 2003 by the Court of Subordinate Judge, Sankari is hereby confirmed.

(iii) Consequently, C.M.P.No.4625 OF 2004 is also dismissed.

No costs.

Index:yes

Website:yes

tsv.

To

Subordinate Judge, Sankari

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